

Patent Clerk  
8550 Higuera Street  
Culver City, California 90232  
310-845-8501 (Direct Line)  
310-845-8619(Fax)

Discus Dental, Inc.

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**Fax**

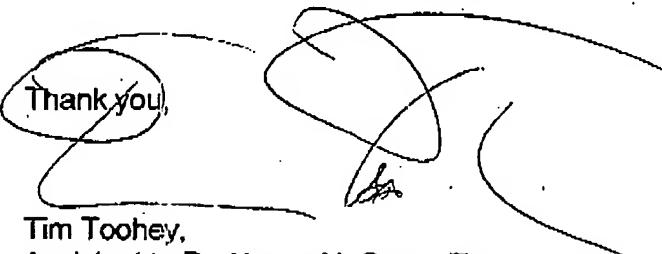
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**To:** USPTO                    **From:** Tim Toohey  
**Fax:** 571-273-8300            **Pages:** 11, (including this page)  
**Phone:**                        **Date:** P1087US04  
**Re:** P1087US04

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Dear USPTO,

Please find attached Applicant's petition for revival of an application for patent.



The image shows a handwritten signature in black ink. To the left of the signature, there is a small oval containing the words "Thank you". Below the signature, the name "Tim Toohey" is printed in a standard font, followed by "Assistant to Dr. Nancy N. Quan, Esq." and "Vice President and Chief IP Counsel".

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PTO/SB/21 (10-07)

Approved for use through 10/31/2007, OMB 0651-0031  
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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

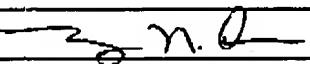
Total Number of Pages in This Submission

Application Number	10/568054
Filing Date	07/28/2004
First Named Inventor	R. Eric Montgomery
Art Unit	
Examiner Name	
Attorney Docket Number	7800b.005 or P1087US04

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		
Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137 (b) with supporting documents		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name	Nancy N. Quan		
Date	3/11/08	Reg. No.	36,248

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (10-07)

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL For FY 2008

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

Complete if Known

Application Number	10/568054
Filing Date	07/28/2004
First Named Inventor	R. Eric Montgomery
Examiner Name	
Art Unit	
Attorney Docket No.	7800b.005 or P1087US04

## METHOD OF PAYMENT (check all that apply)

Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_

Deposit Account Deposit Account Number: 503717 Deposit Account Name: Discus Dental Impressions

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below  Charge fee(s) indicated below, except for the filing fee  
 Charge any additional fee(s) or underpayments of fee(s)  Credit any overpayments  
 under 37 CFR 1.16 and 1.17

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## FEE CALCULATION

### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

### 2. EXCESS CLAIM FEES

#### Fee Description

Each claim over 20 (including Reissues)

Small Entity

Fee (\$)

Fee (\$)

50 25

Each independent claim over 3 (including Reissues)

210 105

Multiple dependent claims

370 185

Total Claims Extra Claims Fee (\$) Fee Paid (\$)

Multiple Dependent Claims

- 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

Fee (\$)

Fee Paid (\$)

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)

Fee (\$)

Fee Paid (\$)

- 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

Other (e.g., late filing surcharge): Petition for Revival under 37 C.F.R. 1.137(b)

1540

## SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 36,248	Telephone (310) 845-8501
Name (Print/Type)	Nancy N. Quan	Date 3/11/08	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/64 (01-08)

Approved for use through 02/29/2008. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
7800b,005 or P1087US04

First named inventor: R Eric Montgomery

Application No.: 10/568054

Art Unit:

Filed: 07/28/2004

Examiner:

Title: Compositions, Methods, Devices and Kits for Maintaining or Enhancing Tooth Whitening

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ 1540 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Petition Under 37 C.F.R. 1.182 (identify type of reply):

has been filed previously on \_\_\_\_\_  
 is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$

has been paid previously on 03/14/2008 VBUII1 00000063 503717 10568054  
 is enclosed herewith.

01 FC:1453 1540.00 DA

[Page 1 of 2]  
This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450, DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

MAR 13 2008

PTO/SB/64 (01-08)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature

Date

Nancy N. Quan

Typed or printed name

36248

Registration Number, if applicable

8550 Higuera Street

Address

(310) 845-8501

Telephone Number

Culver City, CA 90232

Address

Enclosures:  Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: \_\_\_\_\_

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate

(Page 2 of 2)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: BRITESMILE DEVELOPMENT, INC.  
Application No.: 10/568054  
PCT No.: PCT/US2004/024070  
For: THERAPEUTIC RESPONSIVE DENTAL GEL  
COMPOSITION  
Int'l Filing Date: JULY 28, 2004  
Officer: Richard M. Ross

Certificate of Transmission

Date of Transmission:

The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being transmitted to the United States Patent and Trademark Office via facsimile under 37 CFR 1.8a to 571-273-8300.

Date: \_\_\_\_\_ By: \_\_\_\_\_

**PETITION UNDER 37 C.F.R. 1.182**

Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Attn: Office of the PCT Legal Administration

Dear Sir:

In response to the decision on the renewed petition under 37 C.F.R. 1.47(b) dated February 23, 2007, Applicant hereby petitions for revival under 37 CFR 1.137(b) to respond to this action.

The instant action notes that "the declaration executed by the inventor is not in compliance with 37 CFR 1.497, in that it fails to properly identify the inventor herein. Specifically, the declaration identifies the inventor as Robert Eric Montgomery, while the name of record for this inventor is Eric R. Montgomery." Applicant hereby submits a petition under 37 CFR 1.182 to correct the name of the inventor to that set forth in the declaration (i.e. Robert Eric Montgomery).

Accompanying this petition is a fee transmittal form. Please charge any other fee required for a complete response associated with this application to be charged to our deposit account number 50-3717.

Background

This instant Application was acquired through an Asset Purchase Agreement, the rights to this Application were assigned to Assignee through the Assignment Agreement previously submitted.

After receipt of the Notification of Missing Requirements mailed on April 6, 2006, Applicant attempted on numerous occasions to secure R. Eric Montgomery's signature, and was not successful. Therefore, in response, Applicant filed a Petition on October 6, 2006, under 37 C.F.R. 1.47(b), to accept the international application without the signature of the sole inventor.

Subsequent to the receipt of the decision on the petition, Applicant was able to secure a properly executed declaration from the inventor (previously submitted).

Petition for Correcting the name of the inventor under 37 CFR 1.182

Applicant respectfully petitions under 37 CFR 1.182 to correct the name of the inventor to that set forth in the declaration (i.e. Robert Eric Montgomery).

In support of this petition, Applicant hereby encloses a copy of the bibliographic page of a US application, claiming priority to the same provisionals as the instant PCT application, showing the sole named inventor as R. Eric Montgomery. As seen in the previously submitted declaration, the inventor signs his name as R. Eric Montgomery, R. being an abbreviation of Robert, as his full name is Robert Eric Montgomery, as is clearly showed in the declaration. The inventor's name was accidentally transposed during filing of this instant PCT application by the inventor's former representative. Since this is clearly an error that was unintentionally committed, Applicant respectfully requests that this petition to change the name of the inventor to correspond to the declaration be granted. Favorable action is respectfully requested.

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The Rest of This Page is Left Intentionally Blank

If this paperwork is considered to be incomplete, the Patent Office is respectfully requested to contact the undersigned by telephone collect at 310-845-8501 in Culver City, California.

Dated: 3/11/08

Respectfully Submitted by:



Nancy N. Quan, Esq.  
Regis. No.: 36,248  
Britesmile Professional, LLC  
8550 Higuera Street  
Culver City, California 90232  
Direct Line: 310-845-8501  
Facsimile: 310-845-8619  
NancyQ@DiscusDental.com

MAR 13 2008

SOLE

Attorney Docket No. 03194243

A S S I G N M E N T

WHEREAS, I, R. Eric MONTGOMERY, the undersigned inventor having my residence as set forth below, have invented a new invention for:

**THERAPEUTIC RESPONSIVE DENTAL GEL COMPOSITION**

as described and set forth in U.S. Patent Application No. 10/670,950 filed on September 25, 2003, preparatory to obtaining Letters Patent of the United States therefor; and

WHEREAS, BRITESMILE DEVELOPMENT, INC., (hereinafter referred to as "Assignee"), with its principal place of business at 490 North Wiget Lane, Walnut Creek, California 94598, desires to acquire the entire right, title and interest in and to said invention, improvements, application and any Letters Patents which may be granted therefor or thereupon, together with any and all divisions, continuations, reissues and extensions thereof;

NOW, THEREFORE, to all whom it may concern, be it known that for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, I have sold, assigned, transferred and set over, and by these presents do sell, assign, transfer and set over, unto Assignee, its successors and assigns, the entire right, title and interest in and to said invention, improvements, and in and to said application and any Letters Patents which may be granted therefor or thereupon, together with any and all divisions, continuations, reissues and extensions thereof, and I authorize and request the Commissioner of Patents and Trademarks to issue any Letters Patent which may be granted for or upon said invention or applications, or patents resulting therefrom, insofar as my interest is concerned, unto Assignee in accordance with this Assignment.

I will communicate to Assignee, its successors and assigns or their representatives, any facts known to me respecting said invention and improvements; and, at the expense of Assignee, I will testify in any legal proceedings relating thereto, sign all lawful papers, execute all divisional, continuing, reissue and substitute applications, make all rightful oaths and declarations, and, in addition, execute any and all documents required to vest title in Assignee and to aid Assignee to obtain and enforce proper protection for said invention.

---

I covenant that I have the full right to convey the interest assigned by this Assignment, and I have not executed and will not execute any agreement in conflict with this Assignment.

This Assignment shall be binding on the parties' successors, assigns and legal representatives.

Signature of Inventor:



Inventor's Name:

R Eric MONTGOMERY

Residence:

815 Pleasant Street

Lee, MA 01238

Citizenship:

United States

Date:

November 15<sup>th</sup>, 2003



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United States Patent and Trademark Office  
Admiral COMMISSIONER FOR PATENTS  
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Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/568,054	R Eric Montgomery	7800b.8005
David M. Quinlan, P.C. 32 Nassau Street Suite 300 Princeton, NJ 08542		INTERNATIONAL APPLICATION NO.
		PCT/US04/24070
I.A. FILING DATE	PRIORITY DATE	
07/28/2004	07/28/2003	

CONFIRMATION NO. 3707  
371 ABANDONMENT/TERMINATION  
LETTER



OC00000028206278

Date Mailed: 02/11/2008

**NOTIFICATION OF ABANDONMENT**

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 02/23/2007 within the time period set therein.

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

TERRY M JOHNSON VESSELS

Telephone: (703) 308-9140 EXT 221

sent to Discus  
Dental  
2/14/08  
(M)

page 1 of 1

FORM PCT/DO/EO/905 (371 Abandonment Notice)